



Case No. 1:12-CV-02088  
Gwin, J.

for attorney fees subject to the availability of the full amount of Plaintiff's past-due social security benefits award.

## II. Discussion

Plaintiff was awarded \$82,886.00 in past due benefits after six years of representation by counsel.<sup>4/</sup> Under Plaintiff and counsel's fee agreement, counsel is entitled to 25 per cent of the \$82,866.00, or \$20,721.50.<sup>5/</sup> Administrative Law Judge Peter Bronson authorized counsel to collect \$7,500 out of the award.<sup>6/</sup> As a result, counsel seeks the remaining \$13,221.50 to arrive at the 25 per cent cap.

With her response, Defendant points out that Plaintiff also received an award for \$12,617.00 in another matter.<sup>7/</sup> This figure could offset the award in this case, reducing it to \$70,286.50. If that offset occurs, then the new 25 per cent cap would be \$17,567.12. After factoring in the ALJ authorization for \$7,500, the amount Defendant would be entitled to is \$10,067.12.<sup>8/</sup> That figure is \$3,154.38 less than the amount Plaintiff's counsel seeks in fees.

Rather than waiting to see whether the \$12,617.00 award will offset the award and reduce counsel's attorney fees by \$3,154.38 in this case, the Court awards Plaintiff's counsel \$13,221.50 in attorney fees subject to the availability of the full \$82,866.00 award in this case.

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<sup>4/</sup>Doc. [24](#) at 6.

<sup>5/</sup>Doc. [24-3](#).

<sup>6/</sup>Doc. [24-1](#).

<sup>7/</sup>Doc. [26](#) at 1.

<sup>8/</sup>*See* [42 U.S.C. § 406\(b\)\(1\)](#).

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### **III. Conclusion**

For the foregoing reasons, the Court **GRANTS** Plaintiff's motion for attorney fees subject to the availability of the full amount of Plaintiff's past-due social security benefits.

IT IS SO ORDERED.

Dated: October 9, 2015.

s/ *James S. Gwin*  
JAMES S. GWIN  
UNITED STATES DISTRICT JUDGE